

REMARKS

Claims 1-15 and 30-49 are pending. Claims 1, 9, 30, and 37 have been amended. Claims 48 and 49 have been added. No new matter has been introduced. Reexamination and reconsideration of this application are respectfully requested.

In the August 22, 2003 Office Action, the Examiner rejected claims 1-4, 6-15, and 30-47 under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 6,189,008 to Easty et al. ("Easty"), in view of U.S. Patent Publication No. 2002/0199193 A1 to Gogoi et al. ("Gogoi"). Claim 5 was rejected under 35 U.S.C. §103(a) as being obvious over Easty in view of a combination of U.S. Patent No. 5,805,804 to Laursen et al. ("Laursen") and Gogoi. These rejections are respectfully traversed.

Embodiments of the present invention are directed to an automatic user preference detection system. A score calculation module determines a score for a media content file distributed by a media content file distribution source. The score is calculated based on a comparison of a length of time in which a user allows the media content file to be played at a user computing device relative to a total length of the media content file. A preference determination module determines a preference file for the user of the media content distribution source. The preference file is based on previously determined media scores for the user and a determination of local media content files stored on the user computing device. The preference determination module scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file. A database stores the preference file for the user of the media content file distribution source. A processing module modifies the preference file

based on the score, and further selects a second media content file to distribute to the user based on the preference file.

In the August 22, 2003 Office Action, the Examiner rejected claims 1-4, 6-15, and 30-47 under 35 U.S.C. §103(a) as being anticipated by Easty, in view of Gogoi. The Examiner rejected claim 5 under 35 U.S.C. §103(a) Easty in view of a combination of Laursen and Gogoi. The Examiner stated that Easty discloses an automatic user preference detection system having (a) a score calculation module to determine a score for a media content file distribution source; (b) a database to store a preference file for the user, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user's computing device; and (c) a processing module to modify the preference file based on the scored.

The Examiner noted that Easty "does not teach a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determine media scores for the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device." However, the Examiner stated the following about Gogoi:

"[Gogoi] teaches a preference determination module to determine a preference file for the user of the media content distribution source (See page 8, claims 1-3), the preference file being based on previously determined media scores for the user computing device (See page 8, paragraphs 0168-0169, also see page 3, paragraph 0049, also see page 2, paragraphs 0021-0027, wherein "scores" reads on "ratings"), wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device (See page 1, paragraphs 0004-0005, wherein "user computing device" reads on "digital TV ... and digital set top boxes", also see page 1, paragraph 0020, also se page 3, paragraph 0049, wherein "content files stored" reads on "history database", also see page 8, claims 1-10)."

The Examiner stated that it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the teachings of Easty and Gogoi in the direction of claims 1-4, 6-15, and 30-47. The Examiner further stated that Easty does not disclose use of a user control point, but stated that Laursen teaches use of a remote control as a user control point, and that it would have been obvious to combine the teachings of Easty, Gogoi, and Laursen in the direction of claim 5.

Applicants note that the present application was filed on December 29, 2000. Gogoi was filed on May 28, 2002, and published as U.S. Patent Application Publication No. US2002/0199193 on December 26, 2002. Gogoi claims priority to (a) an earlier-filed provisional application (No. 60/293,763, "the '763 provisional"), filed on May 25, 2001, and (b) an earlier filed U.S. Patent Application (Ser. No. 09/096,592), filed on June 12, 1998, and which issued as U.S. Patent No. 6,614,987 ("the '987 patent") on September 2, 2003. Accordingly, the present application was filed before both Gogoi and the '763 provisional. Therefore, to the extent that the Examiner alleges that any of the disclosure of Gogoi, to which the Examiner has cited has being anticipatory, is entitled to the priority date of the '987 patent, applicants respectfully submit that the Examiner should inform applicants of the exact pages of the corresponding disclosure in the '987 patent. Attached herewith as Exhibit A is a copy of the '987 patent for the Examiner's convenience (the '987 patent is also being submitted along with an Information Disclosure Statement, which the applicants request the Examiner to enter). In the discussion below, applicants discuss the differences between the claims and the present invention and the '987 patent (instead of Gogoi) because Gogoi is not prima facie prior art and only has an earlier priority date than the present invention to the

extent that any relevant discussion in Gogoi has corresponding support in the '987 patent.

Independent claim 1, as amended, recites (with emphasis added):

1. An automatic user preference detection system, comprising:
a score calculation module to determine a score for a media content file distributed to a user by a media content file distribution source, wherein the score is calculated based on a comparison of a length of time in which the user allows the media content file to be played at a user computing device relative to a total length of the media content file;

a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user computing device, wherein the preference determination module scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file;

a database to store the preference file for the user of the media content file distribution source; and

a processing module to modify the preference file based on the score, wherein the processing module further selects a second media content file to distribute to the user based on the preference file.

Easty discloses a digital media management system for providing digital media to end users in a network. The system includes a central facility having a central server 11 connected to a central database 12, and a plurality of endpoint servers 13 each connected to an endpoint database 14. [Col. 3, lines 30-35.] Each endpoint server 13 is connected to a communication network 15, to which end users or clients 16 are also connected. The system is used to deliver digital media to the users. An agenting section 13a of the endpoint server 13 communicates with a client agenting section 16a of the client software 16 on a user's PC to act as a personal assistant for the user, recommending contents to the user based on a user profile which reflects the user's preferences. [Col. 4, lines 15-22.] Regarding the user profile, Easty teaches (with emphasis added):

"User information may be obtained from several sources. First, information may be obtained from a user when he or she subscribes to the service, including the user's name, age, sex, locality and other demographic information. Second, user information may be acquired from the information transmitted by the client relating to the user's activities, such as the identity of the user, contents requested, contents purchased, date and time of each request, actual playing time of requested contents, stop signals, rating of the contents given by the user, other products or services purchased via on-line transaction and so on. Information relating to the user's activities may be referred to as affinity information.

Actual playing time refers to the portion of a delivered content that is actually played by the user. For example, the content distribution system may allow a delivered content to be stored in a storage device at the user's computer, and allow the user to play (including re-play) the content within a predefined time period such as 24 hours. In such a system, a content delivered to a user may not actually be played or played in its entirety by the user. Thus, the actual playing time for a delivered content is distinguished from the delivering of the content when affinity information is concerned. The ability to monitor actual playing time of a delivered content enhances the accuracy of the user profile and the effectiveness of agenting."

However, the Easty does not disclose, teach, or suggest an automatic user preference detection system having a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user computing device, where **the preference determination module scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file.** There is no such scanning disclosed in Easty.

Easty discloses use of a "user profile" which reflects the user's preferences, and that the user's preferences are determined in part by actual playing time of delivered content that is actually played by a user. Easty further discloses that "the content distribution system may allow a delivered content to be stored in a storage device at the user's computer, and allow the user to play (including re-play) the content within a

predefined time period such as 24 hours.” By scanning the user’s hard drive, the preference determination module has the ability to determine media content preferences of the user with minimal user interaction. However, there is no teaching, disclosure or suggestion in Easty of scanning the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file.

Moreover, Easty teaches away from scanning the user’s hard drive. Easty teaches:

“Although referred to as a ‘a user,’ each computer connected to the network may be used by a plurality of human users, such as members of a household. Each human user may log onto the system using a unique user ID.”

Accordingly, since multiple users use the same computer, scanning the computer for media content files would be nonsensical because there would be no way of determining which of the users preferred which of the media content files. Accordingly, independent claim 1, as amended, distinguishes over Easty.

The ‘987 patent does not make up for the deficiencies of Easty. The ‘987 patent discloses a system 10 for recording television programs for subsequent viewing by user. The system utilizes category-value pairs 115 (preference information) which are indicative of viewing preferences of the user. Television programs 105 recorded by the system 100 are stored together with the associated attribute information 107.

“[A p]reference agent 110 generates, in response to user [viewing] habits, data for each category stored in preference database 116 and for each value of each category. The data generated by preference agent 110 for each category and value is preferably indicative of the amount of time that the particular category and/or value is watched by the user relative to the total amount of time that the particular category and/or value is available to be watched. The relative amount of time that a program is watched by a user is a convenient indication of the user’s relative viewing preference. However, other indications of user viewing preferences may also be used. Program source switch 114 operates in response to user inputs 102 to select either presently broadcasted programs, by way of

television signal 104 or stored programs from storage devices 106.”

The ‘987 patent further discloses that television programs can be stored on storage devices 106, such as a non-volatile, random-access semiconductor memory. [Col. 9, lines 28-31.] However, the ‘987 patent does not disclose, teach, or suggest an automatic user preference detection system having a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user computing device, where **the preference determination module scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file.**

Instead, the ‘987 patent teaches (a) television programs can be stored along with associated attribute information, and then (b) played back to the user, and preference data for the user is indicative of an amount of time the user watches a particular category of program is determined for the user. There is no teaching in the ‘987 patent of scanning a user computing device to determine the local media content files stored on the user computing device, as specified by independent claim 1, as amended. This is a substantial distinction – scanning the user computing device to determine the local media content files stored on the user computing device allows a more accurate preference file of the user’s favorite types of media to be determined more precisely than would be possible by simply recording the types of media played by the user at the time they are played by the user.

Moreover, independent claim 1, as amended, further distinguishes over the ‘987

patent. Specifically, independent claim 1, as amended, further specifies that the scanning occurs *regardless of whether the user is currently playing the local media content file*. Unlike the '987 patent, which determines preference data based on an amount of time a television program is viewed *while it is viewed*, independent claim 1 specifies a system which scans the user computing device to determine the local media content files stored on the user computing device regardless of whether the user is currently playing the local media content file. Therefore, independent claim 1, as amended, distinguishes over the '987 patent, alone or in combination with Easty.

Laursen does not make of for the deficiencies of the combination of Easty and the '987 patent. Laursen discloses a method and apparatus for scalable, high bandwidth storage retrieval and transportation of multimedia data on a network. A service mechanism allows applications to be split such that client services (set-top boxes, personal digital assistants, etc.) can focus on presentation, while backend services running in a distributed server complex, provide access to data messaging across an abstracted interface. Laursen discloses use of a remote control device to control an application program for use with the method and apparatus.

However, Laursen does not, alone or in combination with Easty or the '987 patent, disclose, teach, or suggest an automatic user preference detection system having a preference determination module to determine a preference file for the user of the media content distribution source, the preference file being based on previously determined media scores for the user and a determination of local media content files stored on the user computing device, where **the preference determination module scans the user computing device to determine the local media content files**

stored on the user's computing device regardless of whether the user is currently playing the local media content file.

Therefore, for the reasons set forth above independent claim 1, as amended, distinguishes over Easty, alone or in combination with either of the '987 patent or Laursen. Claims 2-7, and 44 depend, directly or indirectly, from independent claim 1, as amended, and therefore also distinguish over Easty, alone or in combination with '987 patent and/or Laursen for the same reasons as those set forth above with respect to independent claim 1, as amended. Independent claims 9, 30 and 37, each as amended, each contain limitations similar to those of independent claim 1, as amended, and therefore also distinguish over Easty, alone or in combination with '987 patent and/or Laursen for reasons similar to those set forth above with respect to independent claim 1, as amended. Claims 10-15, and 45 all directly depend from independent claim 9, as amended, and therefore also distinguish over Easty, alone or in combination with '987 patent and/or Laursen for the same reasons as those set forth above with respect to independent claim 9, as amended. Claims 31-36, and 46 all directly depend from independent claim 30, and therefore also distinguish over Easty, alone or in combination with '987 patent and/or Laursen for the same reasons as those set forth above with respect to independent claim 30. Claims 38-43, and 47 all directly depend from independent claim 37, and therefore also distinguish over Easty, alone or in combination with '987 patent and/or Laursen for the same reasons as those set forth above with respect to independent claim 37.

Accordingly, applicants respectfully submit that rejection of claims 1-5, 6-15, and 30-47 under 35 U.S.C. §103(a) should be withdrawn.

Moreover, new claim 48 further distinguishes over Easty, alone or in combination with '987 patent and/or Laursen. New claim 48 recites (with emphasis added):

"48. An automatic **music** preference detection system, comprising:
a score calculation module to determine a score for a **music file** distributed to a user by a music file distribution source, wherein the score is calculated based on a comparison of a length of time in which the user allows the music file to be played at a user computing device relative to a total length of the music file;
a preference determination module to determine a preference file for the user of the music distribution source, the preference filed being based on previously determined media scores for the user and a determination of local music files stored on the user computing device, **wherein the preference determination module scans the user computing device to determine the local music files stored on the user computing device**;
a database to store the preference file for the user of the music file distribution source; and
a processing module to modify the preference file based on the score, wherein the processing module further selects a second music file to distribute to the user based on the preference file."

As discussed above with respect to independent claim 1, as amended, none of Easty, '987 patent, or Laursen disclose such a music preference detection system having a preference determination module to determine a preference file for the user of the music distribution source, the preference filed being based on previously determined media scores for the user and a determination of local music files stored on the user computing device, where *the preference determination module scans the user computing device to determine the local music files stored on the user computing device*. Moreover, applicants further note that '987 patent, which discloses determining preference data based on an amount of time a television program is viewed, contains no discussion of determining any preference file for a user of a music distribution source. Instead, '987 patent is directed to determining a score for a user who views a *television program*. Therefore, new claim 48 distinguishes over Easty, alone or in combination with '987 patent and/or Laursen. New claim 49 directly depends from

independent claim 48 and therefore also distinguishes over Easty, alone or in combination with '987 patent and/or Laursen for the same reasons as those set forth above with respect to independent claim 48.

Moreover, new claim 49 further distinguishes over Easty, alone or in combination with '987 patent and/or Laursen. Specifically, new claim 49 recites (with emphasis added): "[t]he automatic music preference detection system of claim 48, **wherein the music file is in an MP3 format.**" Such limitation is not disclosed, taught, or suggested by any of Easty, '987 patent, or Laursen. Therefore, new claim 49 further distinguishes over Easty, alone or in combination with '987 patent and/or Laursen.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

Applicants believe that the foregoing amendments place the application in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call either of the undersigned attorneys at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

PILLSBURY WINTHROP LLP

Date: November 20, 2003

By: James M. Wakely
James M. Wakely
Registration No. 48,597
Attorney For Applicants

Date: November 20, 2003

By: Roger R. Wise
Roger R. Wise
Registration No. 31,204
Attorney For Applicants

725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406
Telephone: (213) 488-7100
Facsimile: (213) 629-1033